

§ 114.33

contracting party to the A.T.A. Convention or TECRO/AIT Agreement.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982; T.D. 98-10, 63 FR 4168, Jan. 28, 1998]

§ 114.33 Action against carnet user.

In the event of fraud, violation, or abuse of the privileges of a Convention or Agreement, action may be taken against the users of carnets for applicable duties and charges or liquidated damages, as the case may be. Penalties to which such persons have thereby rendered themselves liable may also be imposed.

[T.D. 70-134, 35 FR 9261, June 13, 1970, as amended by T.D. 98-10, 63 FR 4168, Jan. 28, 1998]

§ 114.34 Cancellation of erroneous charges.

(a) *TIR carnet*. When it is determined that liquidated damages assessed or paid for any shortage, irregular delivery, or nondelivery of merchandise covered by a TIR carnet did not in fact accrue, the liquidated damages shall be cancelled by the port director and, if paid, refunded, as provided by § 18.8 of this chapter.

(b) *A.T.A. or TECRO/AIT carnet*. When it is determined that liquidated damages assessed or paid for failure to properly reexport or destroy merchandise temporarily imported under cover of an A.T.A. or TECRO/AIT carnet did not in fact accrue, the liquidated damages shall be cancelled by the port director and, if paid, refunded as provided by § 10.39 of this chapter.

(c) *Determination dependent upon a construction of law*. When the determination of whether or not the charge was erroneously made depends upon a construction of law, the charge shall not be cancelled without the approval of the Commissioner of Customs, unless there is in force a ruling by the Commissioner of Customs decisive of the issue. Approval of the Commissioner shall be requested in all doubtful cases. (See § 172.31 of this chapter.)

[T.D. 74-227, 39 FR 32023, Sept. 4, 1974, as amended by T.D. 82-116, 47 FR 27262, June 24, 1982; T.D. 98-10, 63 FR 4168, Jan. 28, 1998]

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